

**Senate Bill No. 1110**

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Passed the Senate August 31, 2005

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*Secretary of the Senate*

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Passed the Assembly August 30, 2005

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2005, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Section 338 of the Code of Civil Procedure, to amend Section 12007 of the Fish and Game Code, to amend Sections 65040.2, 65352.3, 65560, and 65562.5 of the Government Code, to repeal Section 85.3 of the Harbors and Navigation Code, to amend Sections 10109, 20126, 20165, and 20676 of the Public Contract Code, to amend Sections 2207, 4561.5, 31220, and 42240 of, to add Sections 5003.13, 31165, and 31316 to, and to repeal Sections 665, 733, 2797, 4535, 4561.6, 5072.3, 29411, 29412, and 30521 of, the Public Resources Code, and to amend Section 359 of the Water Code, relating to public resources.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1110, Committee on Natural Resources and Water. Public resources.

(1) Existing law requires an entity, as defined, proposing a project that would alter a streambed to submit prescribed plans and other information to the Department of Fish and Game and to follow prescribed procedures. Existing law provides that the Attorney General, a district attorney, or a city attorney may seek a civil penalty, within 3 years, against an entity for violating an agreement or a memorandum of understanding (MOU) allowing that entity to carry out the project that was executed before January 1, 2004.

This bill would provide that the Attorney General, a district attorney, or a city attorney has 3 years to commence an action to recover civil penalties against an entity for violating the agreement or MOU that was executed on or after January 1, 2004. The bill would also provide a 3-year statute of limitations for an action seeking a civil penalty against an entity that violates a requirement related to the alteration of a streambed.

(2) Existing law, contain specified provisions relating to the protection of Native American places, features, and objects.

This bill would make a technical nonsubstantive change in those provisions.

(3) Existing law appropriated from the Harbors and Watercraft Revolving Fund for the fiscal year 1970-71 a sum not to exceed

\$150,000 to the Department of Boating and Waterways for expenditure for contract authority for the purposes of establishing economic justification, making financial and engineering feasibility determinations, and preparing those plans and cost estimates as may be necessary to justify budget proposals or appropriate expenditures, for specified boating and waterway projects.

This bill would repeal those obsolete provisions.

(4) Existing law governing public contracts requires a governmental agency or public utility that proposes a project that would divert, obstruct, or change the natural flow of, or result in the disposal of debris in, a river, stream, or lake designated by the Department of Fish and Game, to include, in any notice inviting bids on the project that specifies locations of possible materials, such as borrow pit or gravel bed, for use in the construction of that proposed project and that is subject to provisions of the Fish and Game Code regulating impacts on rivers, streams, and lakes, specified conditions or modifications, as determined by the department.

This bill would make technical and conforming changes to correct obsolete references to those provisions of the Fish and Game Code imposing limitations on projects by the use of alteration agreements executed between the department and the entity undertaking the project.

(5) Existing law relating to contracting by local agencies prohibits operators of surface mines in California, whose operations are not identified in specified lists, from selling mined material produced from a surface mining operation subject to the Surface Mining and Reclamation Act of 1975 to a local agency.

This bill would define “local agency” for those purposes. This bill would also provide that this prohibition applies to a sale of that mined material to a contractor when the contractor is acting on behalf of, or pursuant to, a contract with a local agency, or otherwise intends to use the mined material on a project of a local agency.

(6) Existing law, the Surface Mining and Reclamation Act of 1975, authorizes the State Mining and Geology Board to impose a fee of \$5 per ounce of gold and 10¢ per ounce of silver mined within the state for deposit into the Abandoned Mine Reclamation and Minerals Subaccount in the Mine Reclamation

Account to be expended for specified purposes regarding abandoned mined lands. That act requires the Director of Conservation, not later than January 1 of each year, to report to the Legislature on any abandoned mine remediation projects that are proposed for the following fiscal year.

This bill would provide that fees collected pursuant to the act may also be used to remediate features of historic abandoned mines, as defined, and lands that they impact. The bill would also eliminate the reporting requirement for abandoned mine remediation projects.

(7) Existing law required that the terms of the members first appointed to the State Mining and Geology Board, the State Board of Forestry and Fire Protection and of the members of fire protection district technical committees expired on specified dates.

This bill would repeal those obsolete provisions.

(8) Existing law required the State Board of Forestry and Fire Protection, before January 1, 1975, after a public hearing, to adopt, and authorizes the board from time to time, after a public hearing, to amend permanent stocking standards applicable to commercial timberland where the growing timber does not meet certain acceptable stocking standards, as enumerated.

This bill would revise those provisions to delete the obsolete reference to the date before which the board, after a public hearing, was required to adopt those permanent stocking standards.

(9) Existing law required the State Board of Forestry and Fire Protection to adopt specified rules prior to January 1, 1976, to specify certain stocking standards to be maintained or established after timber operations on timberlands that have been substantially damaged by fire, insects, disease, wind, flood, or other substantial damage caused by an act of God, as provided.

This bill would repeal those provisions.

(10) Existing law authorizes the Director of Parks and Recreation to grant, in trust and subject to prescribed conditions, all of the rights, title, and interest of the state in specified lands to specified counties for beach, park, and recreational purposes.

This bill would authorize the director to grant, in trust and subject to specified agreement between the Department of Parks and Recreation and the County of Santa Cruz, an easement to a

specified portion of Aptos Creek Road in the County of Santa Cruz.

(11) Existing law required the Director of Parks and Recreation to prepare and transmit to the Legislature, no later than January 1, 1997, a proposed plan for the development and operation of a statewide system of recreation trails.

This bill would repeal that obsolete provision.

(12) Existing law required certain local governments, districts, and the Solano County Local Formation Commission to prepare, before July 1, 1978, and to submit to the State Lands Commission, before January 1, 1979, a local protection program for the preservation of Suisun Marsh.

This bill would repeal those obsolete provisions.

(13) Existing law provides that the California Coastal Zone Conservation Commission shall give priority to local coastal programs meeting certain requirements that are within areas designated as pilot project areas by the commission between August 31, 1976, and October 31, 1976.

This bill would repeal that provision.

(14) Existing law authorizes the State Coastal Conservancy to undertake projects and award grants related to the protection and restoration of coastal watershed and coastal and marine habitat water quality that meet objectives, as specified.

This bill would authorize the conservancy to fund projects or activities if they are consistent with the California Ocean Protection Act. The bill would also authorize the conservancy to undertake projects and award grants for activities that are compatible with the preservation, restoration, or enhancement of ocean, coastal, or watershed resources, or that facilitate environmental education for the San Francisco Bay region, urban waterfronts, and other urban coastal watershed areas.

(15) Existing law required the Department of General Services and the Integrated Waste Management Board, in consultation with other affected state agencies, on or before January 1, 1991, to adopt specifications for the purchase of compost by the state, as prescribed.

This bill would delete that obsolete date on or before which the department and the board were required to adopt those specifications for the purpose of composting by the state, and

would require the department and board to maintain those specifications.

(16) This bill would provide that if the City of Exeter or the City of Porterville contracts with an unincorporated disadvantaged community, as defined, for the provision of water services, the provision of water services to that community, by itself, shall not cause the city to lose any applicable exemptions to general law that the city may have before the provision of water services to that community for projects related to water services conducted within the city's boundaries.

This bill would declare that due to the special circumstances pertaining to the rural communities near the City of Exeter and the City of Porterville, a general statute within the meaning of a specific provision of the California Constitution cannot be made applicable and a special statute is necessary.

(17) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(18) This bill would also incorporate additional changes in Section 338 of the Code of Civil Procedure proposed by AB 378, to be operative only if AB 378 and this bill are both enacted and become effective on or before January 1, 2006, and this bill is enacted last.

(19) This bill would provide that the changes proposed to Sections 65352.3, 65560, and 65562.5 of the Government Code by this bill would not become operative if SB 922 is enacted and also amends those sections.

(20) The bill would provide that its provisions are severable.

*The people of the State of California do enact as follows:*

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section

13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(l) An action commenced under Section 1603.1, 1615, or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

SEC. 1.5. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any article of historical, interpretive, scientific, or artistic significance is not deemed to have accrued until the discovery of the whereabouts of the article by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued



until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) (1) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action.

(2) Notwithstanding paragraph (1), an action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later.

(3) Notwithstanding paragraph (1), an action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

(k) An action commenced under Division 26 (commencing with Section 39000) of the Health and Safety Code. These causes

of action shall not be deemed to have accrued until the discovery by the State Air Resources Board or by a district, as defined in Section 39025 of the Health and Safety Code, of the facts constituting grounds for commencing the action under its jurisdiction.

(l) An action commenced under Section 1603.1, 1615, or 5650.1 of the Fish and Game Code. These causes of action shall not be deemed to have accrued until discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

(m) An action challenging the validity of the levy upon a parcel of a special tax levied by a local agency on a per parcel basis.

(n) An action commencing under Section 51.7 of the Civil Code.

SEC. 2. Section 12007 of the Fish and Game Code is amended to read:

12007. Notwithstanding Section 12002, the punishment for (1) a second or subsequent violation of Section 1602 or 1605 on the same project or streambed alteration agreement; (2) each violation of Section 2270, 2271, 6400, 6400.5, 15202, 15509, or 15600; or (3) each violation of any regulation adopted pursuant to Section 15510, is a fine of not more than five thousand dollars (\$5,000) or imprisonment in the county jail for a period not to exceed one year, or both the fine and imprisonment.

SEC. 3. Section 65040.2 of the Government Code is amended to read:

65040.2. (a) In connection with its responsibilities under subdivision (l) of Section 65040, the office shall develop and adopt guidelines for the preparation of and the content of the mandatory elements required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3. For purposes of this section, the guidelines prepared pursuant to Section 50459 of the Health and Safety Code shall be the guidelines for the housing element required by Section 65302. In the event that additional elements are hereafter required in city and county general plans by Article 5 (commencing with Section 65300) of Chapter 3, the office shall adopt guidelines for those elements within six months of the effective date of the legislation requiring those additional elements.

(b) The office may request from each state department and agency, as it deems appropriate, and the department or agency shall provide, technical assistance in readopting, amending, or repealing the guidelines.

(c) The guidelines shall be advisory to each city and county in order to provide assistance in preparing and maintaining their respective general plans.

(d) The guidelines shall contain the guidelines for addressing environmental justice matters developed pursuant to Section 65040.12.

(e) The guidelines shall contain advice including recommendations for best practices to allow for collaborative land use planning of adjacent civilian and military lands and facilities. The guidelines shall encourage enhanced land use compatibility between civilian lands and any adjacent or nearby military facilities through the examination of potential impacts upon one another.

(f) The guidelines shall contain advice for addressing the effects of civilian development on military readiness activities carried out on all of the following:

- (1) Military installations.
- (2) Military operating areas.
- (3) Military training areas.
- (4) Military training routes.
- (5) Military airspace.
- (6) Other territory adjacent to those installations and areas.

(g) By March 1, 2005, the guidelines shall contain advice, developed in consultation with the Native American Heritage Commission, for consulting with California Native American tribes for all of the following:

(1) The preservation of, or the mitigation of impacts to, places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

(2) Procedures for identifying through the Native American Heritage Commission the appropriate California Native American tribes.

(3) Procedures for continuing to protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.

(4) Procedures to facilitate voluntary landowner participation to preserve and protect the specific identity, location, character, and use of those places, features, and objects.

(h) The office shall provide for regular review and revision of the guidelines established pursuant to this section.

SEC. 4. Section 65352.3 of the Government Code is amended to read:

65352.3. (a) (1) Prior to the adoption or any amendment of a city or county's general plan, proposed on or after March 1, 2005, the city or county shall conduct consultations with California Native American tribes that are on the contact list maintained by the Native American Heritage Commission for the purpose of preserving or mitigating impacts to places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code that are located within the city or county's jurisdiction.

(2) From the date on which a California Native American tribe is contacted by a city or county pursuant to this subdivision, the tribe has 90 days in which to request a consultation, unless a shorter timeframe has been agreed to by that tribe.

(b) Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Section 65040.2, the city or county shall protect the confidentiality of information concerning the specific identity, location, character, and use of those places, features, and objects.

SEC. 5. Section 65560 of the Government Code is amended to read:

65560. (a) "Local open-space plan" is the open-space element of a county or city general plan adopted by the board or council, either as the local open-space plan or as the interim local open-space plan adopted pursuant to Section 65563.

(b) "Open-space land" is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as defined in this section, and that is designated on a local, regional or state open-space plan as any of the following:

(1) Open space for the preservation of natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays and estuaries; and coastal

beaches, lakeshores, banks of rivers and streams, and watershed lands.

(2) Open space used for the managed production of resources, including but not limited to, forest lands, rangeland, agricultural lands and areas of economic importance for the production of food or fiber; areas required for recharge of groundwater basins; bays, estuaries, marshes, rivers and streams which are important for the management of commercial fisheries; and areas containing major mineral deposits, including those in short supply.

(3) Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic and cultural value; areas particularly suited for park and recreation purposes, including access to lakeshores, beaches, and rivers and streams; and areas which serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.

(4) Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs and areas required for the protection and enhancement of air quality.

(5) Open space in support of the mission of military installations that comprises areas adjacent to military installations, military training routes, and underlying restricted airspace that can provide additional buffer zones to military activities and complement the resource values of the military lands.

(6) Open space for the protection of places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code.

SEC. 6. Section 65562.5 of the Government Code is amended to read:

65562.5. On and after March 1, 2005, if land designated, or proposed to be designated as open space, contains a place, feature, or object described in Sections 5097.9 and 5097.993 of the Public Resources Code, the city or county in which the place, feature, or object is located shall conduct consultations with the

California Native American tribe, if any, that has given notice pursuant to Section 65092 for the purpose of determining the level of confidentiality required to protect the specific identity, location, character, or use of the place, feature, or object and for the purpose of developing treatment with appropriate dignity of the place, feature, or object in any corresponding management plan.

SEC. 7. Section 85.3 of the Harbors and Navigation Code is repealed.

SEC. 8. Section 10109 of the Public Contract Code is amended to read:

10109. Any notice inviting bids on a project which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed project which would be subject to Section 1602 of the Fish and Game Code shall include any conditions or modifications established pursuant to Section 1603.

SEC. 9. Section 20126 of the Public Contract Code is amended to read:

20126. Any notice inviting bids which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed construction project which would be subject to Section 1602 of the Fish and Game Code shall include any conditions or modifications established pursuant to Section 1603 of the Fish and Game Code.

SEC. 10. Section 20165 of the Public Contract Code is amended to read:

20165. Any notice inviting bids, which specifies locations of possible materials, such as a borrow pit or gravel bed, for use in the proposed construction project which would be subject to Section 1602 of the Fish and Game Code, shall include any conditions or modifications established pursuant to Section 1603 of the Fish and Game Code.

SEC. 11. Section 20676 of the Public Contract Code is amended to read:

20676. (a) Operators of surface mines in this state, whose operations are not identified in the list published pursuant to subdivision (b) of Section 2717 of the Public Resources Code, may not sell that California mined material to a local agency.

(b) As used in this section, local agency means any county, city, whether general law or chartered, city and county, town,

school district, municipal corporation, district, political subdivision, or any board, commission, or agency thereof, or any other local public agency.

(c) The prohibition in subdivision (a) applies to a sale of mined material to a contractor when the contractor is acting on behalf of, or pursuant to, a contract with a local agency, or otherwise tends to use the mined material on a project of a local agency.

SEC. 12. Section 665 of the Public Resources Code is repealed.

SEC. 13. Section 733 of the Public Resources Code is repealed.

SEC. 14. Section 2207 of the Public Resources Code is amended to read:

2207. (a) The owner, lessor, lessee, agent, manager, or other person in charge of any mining operation of whatever kind or character within the state shall forward to the director annually not later than a date established by the director, upon forms furnished by the board, a report that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, director, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Bureau of Mines or the director, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7½-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) Proof of annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) Every year, not later than the date established by the director, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, upon forms furnished by the board, a report that provides all of the information specified in paragraphs (1) to (14), inclusive, of subdivision (a).

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (b), (c), (d), or (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The director shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Bureau of Mines, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised reports to the director and the lead agency. Any person who fails to comply with this section, or knowingly provides



incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed four thousand dollars (\$4,000) annually and may not be less than one hundred dollars (\$100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-06 fiscal year and annually thereafter.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of three million five hundred thousand dollars (\$3,500,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005-06 fiscal year and annually thereafter. If the director

determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited in the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the director or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited in the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected in the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Sections 2796.5 and 2797.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For the purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of 1 ½ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report prior to commencement of operations. The new operation shall submit its fee according to the reasonable fee

schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee upon each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" has the same meaning as "surface mining operation" as defined in Section 2735, unless excepted by Section 2714. For the purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

SEC. 15. Section 2797 of the Public Resources Code is repealed.

SEC. 16. Section 4535 of the Public Resources Code is repealed.

SEC. 17. Section 4561.5 of the Public Resources Code is amended to read:

4561.5. The board may from time to time, after a public hearing, amend permanent stocking standards applicable to commercial timberland where the growing timber does not meet the acceptable stocking standards as enumerated in Section 4561.

SEC. 18. Section 4561.6 of the Public Resources Code is repealed.

SEC. 19. Section 5003.13 is added to the Public Resources Code, to read:

5003.13. (a) The director may grant, in trust, an easement, subject to an agreement reached between the department and the County of Santa Cruz, of 420 feet of Aptos Creek Road as it extends northward from Soquel Drive to the County of Santa Cruz for county road purposes, if those uses include access for beach, park, and recreational purposes.

(b) The County of Santa Cruz shall use and maintain any lands, and any improvements thereon, that are granted to the county pursuant to subdivision (a).

SEC. 20. Section 5072.3 of the Public Resources Code is repealed.

SEC. 21. Section 29411 of the Public Resources Code is repealed.

SEC. 22. Section 29412 of the Public Resources Code is repealed.

SEC. 23. Section 30521 of the Public Resources Code is repealed.

SEC. 24. Section 31165 is added to the Public Resources Code, to read:

31165. In order to benefit the San Francisco Bay region, the conservancy may undertake projects and award grants for activities that are compatible with the preservation, restoration, or enhancement of ocean, coastal, bay, or watershed resources, or that facilitate environmental education related to these resources. These projects or activities may include, but are not limited to, exhibits or events emphasizing coastal, watershed, or ocean

resources education, or maritime history, or the development of amenities and infrastructure consistent with this chapter.

SEC. 25. Section 31220 of the Public Resources Code is amended to read:

31220. (a) In order to improve and protect coastal and marine water quality and habitats, the conservancy may undertake coastal watershed and coastal and marine habitat water quality, sediment management, and living marine resources protection and restoration projects or award grants for those projects, consistent with this chapter. Except for projects described in paragraph (7), (8), (9), or (10) of subdivision (b), the conservancy shall consult with the State Water Resources Control Board in the development of the project or grant to ensure consistency with Chapter 3 (commencing with Section 30915) of Division 20.4 of the Public Resources Code.

(b) The conservancy may undertake a project or award a grant for a project under this section only if the project does one or more of the following:

(1) Reduces contamination of waters within the coastal zone or marine waters.

(2) Protects or restores fish and wildlife habitat within coastal and marine waters and coastal watersheds, including, but not limited to, permit coordination projects for watershed restoration.

(3) Reduces threats to coastal and marine fish and wildlife.

(4) Reduces unnatural erosion and sedimentation of coastal watersheds or contributes to the reestablishment of natural erosion and sediment cycles.

(5) Provides for monitoring and mapping of coastal currents, marine habitats, and marine wildlife, in order to facilitate the protection and enhancement of resources within the coastal zone. A project considered under this paragraph shall be implemented in consultation with the Department of Fish and Game.

(6) Acquires, protects, and restores coastal wetlands, riparian areas, floodplains, and other sensitive watershed lands, including watershed lands draining to sensitive coastal or marine areas.

(7) Reduces the impact of population and economic pressures on coastal and marine resources.

(8) Provides for public access compatible with resource protection and restoration objectives.

(9) Provides for the construction or expansion of nature centers or research facilities that emphasize conservation education or research activities focusing on the marine portion of the coastal zone or the land and ocean interface.

(10) Provides for projects and activities consistent with Division 26.5 (commencing with Section 35500).

(c) Projects funded pursuant to this section shall include a monitoring and evaluation component and shall be consistent with the following, if available and relevant to the project:

(1) Integrated Watershed Management Program established pursuant to Section 30947.

(2) Local watershed management plans.

(3) Water quality control plans adopted by the State Water Resources Control Board and regional water quality control boards.

SEC. 26. Section 31316 is added to the Public Resources Code, to read:

31316. Within the conservancy's jurisdiction pursuant to this chapter and within urban coastal watershed areas, the conservancy may undertake projects and award grants for activities that are compatible with the preservation, restoration, or enhancement of ocean, coastal, or watershed resources, or that facilitate environmental education related to these resources. These projects or activities may include, but are not limited to, exhibits or events emphasizing coastal, watershed, or ocean resource education, or maritime history, or the development of amenities and infrastructure consistent with this chapter.

SEC. 27. Section 42240 of the Public Resources Code is amended to read:

42240. The Department of General Services and the board, in consultation with other affected state agencies, shall maintain specifications for the purchase of compost by the State of California. The specifications shall designate the state minimum operating standards and product quality standards. The specifications shall be designed to maximize the use of compost without jeopardizing the safety and health of the citizens of the state or the environment.

SEC. 28. Section 359 of the Water Code is amended to read:

359. Notwithstanding any other provision of law which requires an election for the purpose of authorizing a contract with

the United States, or for incurring the obligation to repay loans from the United States, and except as otherwise limited or prohibited by the Constitution of the State of California, a public water agency may, as an alternative procedure to submitting the proposal to an election, upon affirmative vote of four-fifths of the members of the governing body thereof, apply for, accept, provide for the repayment together with interest thereon, and use funds made available by the federal government pursuant to Public Law 95-18, pursuant to any other federal act subsequently enacted during 1977 which specifically provides emergency drought relief financing, or pursuant to existing federal relief programs receiving budget augmentations in 1977 for drought assistance, and may enter into such contracts as are required to obtain such federal funds pursuant to the provisions of such federal acts; provided the following conditions exist:

(a) The project is undertaken by state, regional, or local governmental agency.

(b) As a result of the severe drought now existing in many parts of the state, the agency has insufficient water supply needed to meet necessary agricultural, domestic, industrial, recreational, and fish and wildlife needs within the service area or area of jurisdiction of the agency.

(c) The project will develop or conserve water before October 31, 1978, and will assist in mitigating the impacts of the drought.

(d) The agency affirms that it will comply, if applicable, with Sections 1602, 1603, and 1605 of the Fish and Game Code.

(e) The project will be completed on or before the completion date, if any, required under the federal act providing the funding, but not later than March 1, 1978.

Any obligation to repay loans shall be expressly limited to revenues of the system improved by the proceeds of the contract.

No application for such federal funds pursuant to the authority of this section shall be made on or after March 1, 1978.

Notwithstanding the provisions of this section, a public agency shall not be exempt from any provision of law which requires the submission of such proposal to an election if a petition requesting such an election signed by 10 percent of the registered voters within the public agency is presented to the governing board within 30 days following the submission of an application for such federal funds.

Notwithstanding the provisions of this section, a public water agency which applied for federal funds for a project prior to January 1, 1978, may make application to the Director of the Drought Emergency Task Force for extension of the required completion date specified in subdivision (e). Following receipt of an application for extension, the Director of the Drought Emergency Task Force may extend the required completion date specified in subdivision (e) to a date not later than September 30, 1978, if the director finds that the project has been delayed by factors not controllable by the public water agency. If the Drought Emergency Task Force is dissolved, the Director of Water Resources shall exercise the authority vested in the Director of the Drought Emergency Task Force pursuant to this section.

For the purposes of this section, “public water agency” means a city, district, agency, authority, or any other political subdivision of the state, except the state, which distributes water to the inhabitants thereof, which is otherwise authorized by law to enter into contracts or agreements with the federal government for a water supply or for financing facilities for a water supply, and which is otherwise required by law to submit such agreements or contracts or any other project involving long-term debt to an election within such public water agency.

SEC. 29. (a) If the City of Exeter or the City of Porterville contracts with an unincorporated disadvantaged community to provide water services to that community, the provision of water services, by itself, shall not cause the City of Exeter or the City of Porterville to lose any applicable exemptions to general law for projects related to the provision of water services conducted within the city’s boundaries.

(b) For the purpose of this section, “disadvantaged community” means a community, as defined in Section 79505.5 of the Water Code, that is unable to meet the health and safety standards for water services pursuant to Article 1 (commencing with Section 116270) of Chapter 4 of Part 12 of Division 104 of the Health and Safety Code.

(c) For the purposes of this section, “applicable exemption” means an exemption that the City of Exeter or the City of Porterville has before the provision of water services pursuant to subdivision (a).



SEC. 30. The Legislature finds and declares that, because of the unique and special circumstances associated with the impoverished rural communities near the City of Exeter and the City of Porterville, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, the enactment of a special law is necessary for the provision of water services to residents of those rural communities.

SEC. 31. Section 1.5 of this bill incorporates amendments to Section 338 of the Code of Civil Procedure proposed by both this bill and AB 378. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2006, (2) each bill amends Section 338 of the Code of Civil Procedure, and (3) this bill is enacted after AB 378, in which case Section 1 of this bill shall not become operative.

SEC. 32. Section 4 of this bill, amending Section 65352.3 of the Government Code, shall not become operative if SB 922 is enacted and also amends Section 65352.3 of the Government Code.

SEC. 33. Section 5 of this bill, amending Section 65560 of the Government Code, shall not become operative if SB 922 is enacted and also amends Section 65560 of the Government Code.

SEC. 34. Section 6 of this bill, amending Section 65562.5 of the Government Code, shall not become operative if SB 922 is enacted and also amends Section 65562.5 of the Government Code.

SEC. 35. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provisions or applications.













Approved \_\_\_\_\_, 2005

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*Governor*